
HOUSE BILL No. 1657

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-7-2-43.5; IC 12-14-29; IC 12-20-5.5-7.

Synopsis: Random drug testing of welfare recipients and applicants. Requires the division of family and children and township trustees to develop a drug testing program for applicants and recipients of nonmedical assistance from the federal Temporary Assistance for Needy Families (TANF) program, a county office of family and children, or a township trustee.

Effective: July 1, 2005.

Lehe, Koch

January 19, 2005, read first time and referred to Committee on Family, Children and Human Affairs.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1657

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-7-2-43.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 43.5. "Controlled substance", for purposes of**
4 **IC 12-14-29 and IC 12-20-5.5, has the meaning set forth in**
5 **IC 35-48-1-9. However, the term does not include a controlled**
6 **substance used under the supervision of a licensed health care**
7 **professional or for another use authorized by the federal**
8 **Controlled Substances Act (21 U.S.C. 812) or other provisions of**
9 **federal law.**
- 10 SECTION 2. IC 12-14-29 IS ADDED TO THE INDIANA CODE
11 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2005]:
- 13 **Chapter 29. Drug Testing of Applicants and Recipients**
- 14 **Sec. 1. (a) The division shall establish a random drug testing**
15 **program as a condition for individuals applying for or receiving**
16 **nonmedical financial assistance from the following:**
- 17 **(1) The federal Temporary Assistance for Needy Families**



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(TANF) program (45 CFR 260 et seq.).

(2) A county office.

(b) An individual who is at least sixty-five (65) years of age is exempt from drug testing under this chapter.

Sec. 2. The drug testing program established under section 1 of this chapter must include the following components:

(1) The random selection of recipients and applicants for:

(A) the federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.); and

(B) other nonmedical financial assistance through a county office;

for drug testing.

(2) A drug testing protocol that includes the use of a urinalysis test to detect the presence of a controlled substance.

(3) An appeals process for applicants and recipients.

(4) A method for determining a percentage loss each month for four (4) months of benefits provided under the federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.) or through a county office for a recipient who refuses to submit to a drug test, as provided in section 5 of this chapter.

Sec. 3. An applicant or recipient tested under this chapter is not considered to have tested positive for the presence of a controlled substance until the urine sample obtained for the original test has been retested to rule out a false positive by:

(1) gas chromatography with mass spectrometry;

(2) gas chromatography;

(3) high performance liquid chromatography; or

(4) an equal or more specific test.

Sec. 4. An individual described in section 1 of this chapter who tests positive for the presence of a controlled substance under this chapter must agree to:

(1) participate in drug abuse assessment; and

(2) comply with a required drug abuse treatment plan.

Sec. 5. (a) An applicant for nonmedical financial assistance under the federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.) or other nonmedical financial assistance from a county office who:

(1) refuses to take a drug test required under this chapter without good cause; or

(2) fails to comply with a drug abuse assessment or treatment plan within two (2) months after receipt of the assessment or

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plan;
is not eligible to receive nonmedical benefits under the federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.) or other nonmedical financial assistance through a county office.

(b) A recipient who refuses to submit to random drug testing loses a percentage of the recipient's nonmedical benefits determined by the division under section 2(4) of this chapter. After four (4) months of refusing to submit to a drug test under this chapter, the division shall deny the recipient nonmedical benefits under the federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.) and other nonmedical financial assistance through a county office.

Sec. 6. The division may adopt rules under IC 4-22-2 necessary to implement this chapter.

Sec. 7. This chapter does not apply to financial assistance received under the federal Food Stamp Program (7 U.S.C. 2011 et seq.).

SECTION 3. IC 12-20-5.5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The township trustee shall establish a random drug testing program as a condition for individuals applying for or receiving nonmedical township assistance under this article.

(b) The drug testing program established under this section must include the following components:

- (1) The random selection of recipients and applicants of nonmedical township assistance.
- (2) A drug testing protocol that includes the use of a urinalysis test to detect the presence of a controlled substance.
- (3) An appeals process for applicants and recipients.
- (4) A method for determining a percentage loss each month for four (4) months of township assistance for a recipient who refuses to submit to a drug test, as provided in subsection (f).

(c) An applicant or recipient tested under this section is not considered to have tested positive for the presence of a controlled substance until the urine sample obtained for the original test has been retested to rule out a false positive by:

- (1) gas chromatography with mass spectrometry;
- (2) gas chromatography;
- (3) high performance liquid chromatography; or
- (4) an equal or more specific test.

(d) An individual who tests positive for the presence of a

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1 controlled substance under this section must agree to:

2 (1) participate in drug abuse assessment; and

3 (2) comply with a required drug abuse treatment plan.

4 (e) An applicant for nonmedical township assistance who:

5 (1) refuses to take a drug test required under this section
6 without good cause; or

7 (2) fails to comply with a drug abuse assessment or treatment
8 plan within two (2) months after receipt of the assessment or
9 plan;

10 is not eligible to receive nonmedical township assistance under this
11 article.

12 (f) A recipient who refuses to submit to random drug testing
13 shall lose a percentage of the recipient's benefits determined by the
14 township trustee under subsection (b)(4). After four (4) months of
15 refusing to submit to a drug test under this section, the township
16 trustee shall deny nonmedical township assistance to the recipient.

17 (g) An individual who is at least sixty-five (65) years of age is
18 exempt from drug testing under this section.

19 (h) The township trustee may adopt rules necessary to
20 implement this chapter.

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